

AUG - 9 2011

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DEPARTMENT OF REAL ESTATE
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

No. H- 37434 LA

HOME RETENTION AND FINANCIAL)
PROGRAMS INC, dba J L Richman and)
Associates Co, WINSTON CHI,)
JONATHAN ARNO and MICHAEL JEFFREY)
SIMPSON, individually, and as)
designated officers of Home)
Retention and Financial Programs)
Inc, LLOYDS INVESTMENT INC, and)
HAMID REZA LAVASSANI, individually,)
and as designated officer of Lloyds)
Investment Inc and ERNESTO GALINATO)
CARDENAS,)

A C C U S A T I O N

Respondents.)

22 The Complainant, Maria Suarez, a Deputy Real Estate
23 Commissioner of the State of California, for cause of
24 Accusation against HOME RETENTION AND FINANCIAL PROGRAMS INC,
25 WINSTON CHI, JONATHAN ARNO and MICHAEL JEFFREY SIMPSON,
26 individually, and as designated officers of Home Retention and
27 Financial Programs Inc, LLOYDS INVESTMENT INC, and HAMID REZA

1 LAVASSANI, individually, and as designated officer of Lloyds
2 Investment Inc and ERNESTO GALINATO CARDENAS is informed and
3 alleges as follows:

4 1.

5 The Complainant, Maria Suarez, a Deputy Real Estate
6 Commissioner of the State of California, makes this Accusation
7 in her official capacity.

8 2.

9 HOME RETENTION AND FINANCIAL PROGRAMS INC,
10 (hereinafter "HRFP") presently has license rights under the
11 Real Estate Law (Part 1 of Division 4 of the Business and
12 Professions Code, hereinafter "Code"), as a corporate real
13 estate broker. HRFP was initially licensed by the California
14 Department of Real Estate ("Department") on January 15, 2009.

15 3.

16 On March 17, 2009, "J L Richman and Associates Co"
17 was registered with the Department as a fictitious business
18 name for HRFP. At material times herein, HRFP used the
19 unlicensed fictitious business names "Richman & Associates",
20 "Richman & Associates, Inc", "Richman & Associates Lavco
21 Financial", "Richman & Associates and Ernesto G. Cardenas" and
22 "Home Retention Programs",

23 4.

24 WINSTON CHI (hereinafter "CHI") is presently licensed
25 and/or has license rights under the Real Estate Law, as a real
26 estate broker. He has been designated officer of HRFP from
27 November 2, 2009 to the present.

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JONATHAN ARNO (hereinafter "ARNO") is presently licensed and/or has license rights under the Real Estate Law, as a real estate broker. He was the designated officer of HRFP from June 1, 2009 to November 2, 2009.

6.

MICHAEL JEFFREY SIMPSON (hereinafter "SIMPSON") is presently licensed and/or has license rights under the Real Estate Law, as a real estate broker. He was the designated officer of HRFP from January 15, 2009 to June 1, 2009.

7.

Pursuant to Code Section 10159.2, Respondents CHI, ARNO and SIMPSON were responsible for the supervision and control of the activities conducted on behalf of Respondent HRFP and by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

8.

LLOYDS INVESTMENT INC (hereinafter "LLOYDS") presently has license rights under the Real Estate Law, as a corporate real estate broker. LLOYDS was initially licensed by the California Department of Real Estate ("Department") on June 13, 2006.

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1 9.

2 HAMID REZA LAVASSANI (hereinafter "LAVASSANI") is
3 presently licensed and/or has license rights under the Real
4 Estate Law, as a real estate broker. He has been the
5 designated officer of LLOYDS from June 13, 2006 through the
6 present.

7 10.

8 Pursuant to Code Section 10159.2, LAVASANI is
9 responsible for the supervision and control of the activities
10 conducted on behalf of Respondent LLOYDS, and by its officers
11 and employees as necessary to secure full compliance with the
12 provisions of the Real Estate Law, including the supervision of
13 salespersons licensed to the corporation in the performance of
14 acts for which a real estate license is required.

15 11.

16 ERNESTO GALINATO CARDENAS (hereinafter "CARDENAS") is
17 presently licensed and/or has license rights under the Real
18 Estate Law, as a real estate broker. On January 8, 2009,
19 CARDENAS filed a Fictitious Business Name Statement for
20 "Mortgage Rescue Services" with the Sacramento County Clerk.

21 12.

22 At all times material herein, Respondents HRFP, CHI,
23 ARNO, SIMPSON and CARDENAS were engaged in the business of,
24 acted in the capacity of, advertised or assumed to act as real
25 estate brokers in the State of California, within the meaning
26 of Code Section 10131(d) and 10131.2, including negotiating
27 loans or performing services for borrowers and collecting or

1 contracting for the collection of an advance fee, within the
2 meaning of Code Section 10026.

3 FIRST CAUSE OF ACCUSATION

4 (Advance Fee Agreements)

5 13.

6 Martinez Transaction

7 On or about February 19, 2008, Zeferino Martinez
8 ("Martinez") entered into an agreement with "Richman &
9 Associates, Inc" in which Richman & Associates Inc agreed to
10 perform services for Martinez in connection with a loan secured
11 by real property in exchange for payment of \$1,900 in advance
12 fees.

13 14.

14 Jordan Transaction

15 On or about December 6, 2008, William and Shalonda
16 Jordan ("the Jordans") entered into an agreement with "Richman &
17 Associates, Inc" in which Richman & Associates Inc agreed to
18 perform services for the Jordans in connection with a loan
19 secured by real property in exchange for payment of \$2,400 in
20 advance fees.

21 15.

22 Rodriguez Transaction

23 On or about November 25, 2008, Claudio and Maricela
24 Rodriguez ("the Rodriguez's") entered into an agreement with
25 "Home Retention Programs by Richman & Associates, Inc" in which
26 Richman & Associates Inc agreed to perform services for the
27

1 Rodriguez's in connection with a loan secured by real property
2 in exchange for payment of \$1,900 in advance fees.

3 16.

4 Samadi Transactions

5 On or about December 17, 2008, Reza Samadi ("Samadi")
6 entered into an Advance Fee Agreement with LLOYDS in which
7 Samadi agreed that \$900 of his \$2,495 advance fee would be paid
8 to "Richman and Associates" for the performance of services in
9 connection with a loan secured by real property located at 6722
10 E. Eugie Terrace, Scottsdale, AZ.

11 17.

12 On or about January 30, 2009, Samadi entered into an
13 Advance Fee Agreement with LLOYDS in which Samadi agreed that
14 \$900 of his \$2,495 advance fee would be paid to "Richman and
15 Associates" for the performance of services in connection with
16 a loan secured by real property located at 6640 E. Eugie
17 Terrace, Scottsdale, AZ.

18 18.

19 Bayatoni Transaction

20 On or about January 30, 2009, Alireza Bayatoni
21 ("Bayatoni") entered into an Advance Fee Agreement with LLOYDS
22 in which Bayatoni agreed that \$900 of his \$3,995 advance fee
23 would be paid to "Richman and Associates" for the performance
24 of services in connection with a loan secured by real property
25 located at 6067 Terrier Court, San Jose, CA.

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Borja Transactions

On March 7, 2009, Reynaldo and Cristina Borja ("the Borjas") signed two authorizations for Mortgage Rescue Services and "Richman & Associates, Inc" to represent the Borjas in negotiating modifications of their loans for homes located at 1152 Fountain Grass Drive in Patterson, CA and 3016 Stevens Lane in San Jose, CA. On March 7, 2009 and March 10, 2009, the Borjas issued \$2,800 checks to Mortgage Rescue Services as advance fees for loan modification services. Among the terms of the advance fee agreement supplied by Mortgage Rescue Services was a statement that \$2,000 of each \$2,800 advance fee payment would be paid to HRFP.

Dandoy Transaction

On or about February 8, 2009, Alfred & Virginia Dandoy ("the Dandoy's") entered into an Advance Fee Agreement with Mortgage Rescue Services in which the Dandoys agreed that \$2,000 of their \$2,800 advance fee would be paid to HRFP "dba Richman and Assoc." for the performance of services in connection with a loan secured by real property located at 836 W. Provance Avenue, Santa Maria, CA.

Wheat Transaction

On or about January 22, 2009, Scott Wheat ("Wheat") entered into an advance fee agreement with US Equity Solutions, LLC, in which Wheat agreed that \$1,095 of his \$2,850 advance

1 fee would be paid to "Richman and Associates" for the
2 performance of services in connection with a loan secured by
3 real property located at 31 Bellinger Court, Reistertown, MD.

4 22.

5 Neither "Richman & Associates, Inc" nor "Richman &
6 Associates" have ever been licensed by the Department as
7 fictitious business names for HRFP, in violation of Code
8 Section 10159.5 and Title 10, Chapter 6, California Code of
9 Regulations ("Regulation") 2731. This provides cause for the
10 suspension or revocation of the license and license of HRFP,
11 pursuant to Code Sections 10177(d) and/or 10177(g).

12 23.

13 The agreements described in Paragraphs 13 through 21
14 above constitute advance fee agreements within the meaning of
15 Code Section 10026. None of these advance fee agreements were
16 approved for use by the Real Estate Commissioner, in violation
17 of Code Sections 10085 and 10085.5, as well as Section 2970 of
18 Title 10, California Code of Regulations ("Regulations").

19 24.

20 The advance fee agreements described in paragraphs 13
21 through 16 above occurred before HRFP was licensed as a real
22 estate broker. Therefore, the advance fee agreement described
23 in paragraphs 13 through 16 violated Code Sections 10131.2 and
24 10130, providing cause for the suspension or revocation of the
25 license and license of HRFP, pursuant to Code Sections 10177(d)
26 and/or 10177(g).

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25.

As violations of Code Section 10085 and 10085.5, the advance fee agreement described in paragraph 17 through 21 provide cause for suspension or revocation of the license and license of HRFP and SIMPSON, pursuant to Code Sections 10177(d) and/or 10177(g).

26.

As violations of Code Section 10085 and 10085.5, the advance fee agreement described in paragraphs 16 through 18 provide cause for suspension or revocation of the license and license of LLOYDS and LAVASSANI, pursuant to Code Sections 10177(d) and/or 10177(g).

27.

"Mortgage Rescue Services" has never been licensed by the Department as fictitious business name for CARDENAS, in violation of Code Section 10159.5 and Regulation 2731. This provides cause for the suspension or revocation of the license and license of CARDENAS, pursuant to Code Sections 10177(d) and/or 10177(g).

28.

As violations of Code Section 10085 and 10085.5, the advance fee agreement described in paragraph 19 and 20 provide cause for suspension or revocation of the license and license of CARDENAS, pursuant to Code Sections 10177(d) and/or 10177(g).

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1 (c) HRFP did not maintain accurate records of all
2 trust funds received and disbursed for each account into which
3 trust funds were deposited. Records provided did not have
4 accurate deposit dates and client's names were not identified,
5 in violation of Code Section 10145 and Regulation 2831.

6 (d) HRFP did not maintain separate records for all of
7 its receipts and disbursements of trust funds in connection
8 with loan modification activity, in violation of Code Section
9 10145 and Regulation 2831.1.

10 (e) HRFP did not maintain a monthly reconciliation
11 of all the separate records to the records of all trust funds
12 received and disbursed, in violation of Code Section 10145 and
13 Regulation 2831.2.

14 (f) HRFP deposited advance fees from borrowers into
15 general business accounts, where they were commingled with
16 HRFP's funds. It also appears that HRFP did not maintain a
17 trust account, in violation of Code Sections 10145(a) and
18 10176(e) and Regulation 2835.

19 (g) HRFP deposited advance fees from borrowers into
20 the same business account from which HRFP's operating expenses
21 and payroll transactions were disbursed, in violation of Code
22 Section 10145.

23 (h) HRFP collected advance fees from borrowers and
24 deposited them into a business account which was not in the
25 broker's name and not designated as a trust account, in
26 violation of Code Section 10146.

27

1 (i) HRFP collected advance fees without maintaining
2 an accounting for borrowers, showing the services rendered,
3 into which trust account the funds were deposited and detail of
4 how the funds were disbursed, in violation of Regulation 2972.

5 (j) HRFP collected advance fees for loan
6 modifications after October 11, 2009, in violation of Code
7 Sections 10085, 10085.6 and Regulation 2970.

8 (k) HRFP used the unlicensed fictitious business
9 names "Home Retention Programs", "Richman & Associates Lavco
10 Financial and "Richman & Associates and Ernesto G. Cardenas",
11 in violation of Code Section 10159.5 and Regulation 2731.

12 (l) HRFP employed and compensated individuals who
13 were not licensed by the Department to perform activities
14 requiring a real estate license, in violation of Code Section
15 10137.

16 (m) HRFP failed to retain all records requested in a
17 subpoena duces tecum served on February 2, 2011, in violation
18 of Code Section 10148.

19 (n) HRFP did not notify the Department of a change
20 in its main office address by the next business day following
21 the change, in violation of Code Section 10162 and Regulation
22 2715.

23 31.

24 The conduct of Respondent HRFP, described in
25 Paragraph 30, above, violated the Code and the Regulations as
26 set forth below:

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PARAGRAPH

PROVISIONS VIOLATED

30 (a)

Code Section 10145 and Regulation
2832.1

30 (b)

Code Section 10145 and Regulation
2832(a)

30 (c)

Code Section 10145 and Regulation
2831

30 (d)

Code Section 10145 and Regulation
2831.1

30 (e)

Code Section 10145 and Regulation
2831.2

30 (f)

Code Sections 10145(a) and
10176(e) and Regulation 2835.

30 (g)

Code Section 10145

30 (h)

Code Section 10146

30 (i)

Regulation 2972

30 (j)

Code Sections 10085, 10085.6 and
Regulation 2970

30 (k)

Code Section 10159.5 and
Regulation 2731

30 (l)

Code Section and 10137

30 (m)

Code Section 10148

30 (n)

Code Section 10162 and Regulation
2715

1 32.

2 The foregoing violations constitute cause for the
3 suspension or revocation of the real estate license and license
4 rights of HRFP under the provisions of Code Sections 10137,
5 10176(e), 10177(d) and/or 10177(g).

6 33.

7 The violations listed in paragraphs 30(a), (b), (c),
8 (d), (e), (f), (g), (j), (k), (l), (m) and (n) above constitute
9 cause for the suspension or revocation of the real estate
10 license and license rights of CHI under the provisions of Code
11 Sections 10137, 10176(e), 10177(d) and/or 10177(g).

12 34.

13 The violations listed in paragraphs 30(b) through
14 30(l) above constitute cause for the suspension or revocation
15 of the real estate license and license rights of ARNO under the
16 provisions of Code Sections 10137, 10176(e), 10177(d) and/or
17 10177(g).

18 35.

19 The violations listed in paragraphs 30(b) through
20 30(m) above constitute cause for the suspension or revocation
21 of the real estate license and license rights of SIMPSON under
22 the provisions of Code Sections 10137, 10176(e), 10177(d)
23 and/or 10177(g).

24 NEGLIGENCE

25 36.

26 The overall conduct of Respondents HRFP, CHI, ARNO
27 and SIMPSON constitutes negligence or incompetence. This

1 conduct and violation are cause for the suspension or
2 revocation of the real estate license and license rights of
3 said Respondents pursuant to Code Section 10177(g).

4
5 SUPERVISION AND COMPLIANCE

6 37.

7 The overall conduct of Respondents CHI, ARNO and
8 SIMPSON constituted a failure on their part, as officers
9 designated by a corporate broker licensee, to exercise
10 reasonable supervision and control over the licensed activities
11 of HRFPP as required by Code Section 10159.2, and to keep HRFPP
12 in compliance with the Real Estate Law, and is cause for the
13 suspension or revocation of the real estate license and license
14 rights of CHI, ARNO and SIMPSON pursuant to the provisions of
15 Code Sections 10177(d), 10177(g) and 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondents HOME RETENTION AND FINANCIAL PROGRAMS INC,
6 WINSTON CHI, JONATHAN ARNO, MICHAEL JEFFREY SIMPSON LLOYDS
7 INVESTMENT INC, HAMID REZA LAVASSANI and ERNESTO GALINATO
8 CARDENAS under the Real Estate Law, and for such other and
9 further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California
12 this 5th day of July, 2011

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16 Maria Suarez
17 Deputy Real Estate Commissioner
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22 cc: HOME RETENTION AND FINANCIAL PROGRAMS INC
23 WINSTON CHI
24 JONATHAN ARNO
25 MICHAEL JEFFREY SIMPSON
26 ERNESTO GALINATO CARDENAS
27 LLOYDS INVESTMENT INC
28 HAMID REZA LAVASSANI
29 Maria Suarez
30 Sacto.